

**KALLINEN LAW PLLC**  
**ATTORNEY & COUNSELOR AT LAW**

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Licensed in all Texas Courts, the United States Supreme Court,  
the District Courts for the Eastern, Western, Northern, and  
Southern Districts of Texas and the United States Court  
of Appeals for the Fifth and Eleventh Circuits

**May 18, 2023**

Michael Smith, Warden (via CMRRR 7021 2720 0002 8338 8058)  
FMC Carswell  
Naval Air Station  
J Street, Building 3000  
Fort Worth, TX 76127  
Telephone: 817/782-4000  
FAX: 817/782-4875

**Re: inmate Maribel Santana Cerano; Register Number: 99877-479**  
**IMMEDIATE MEDICAL CARE NEEDED/MEDICAL RECORDS**

Warden Michael Smith,

We write again as inmate Maribel Santana Cerano needs medical care for her infection and needs to be in the medical care where she was just removed from for her needs to be met. Her medical care to date has caused unnecessary pain and she is in danger of more serious injury and worsening conditions. She may need additional medicine and surgery.

On November 18, 2022, and repeated February 3, 2022, this law firm wrote FMC Carswell that:

*“As before this law firm represents inmate Maribel Santana Cerano.  
On October 16, 2022, this law firm wrote you that:*

*“Ms. Cerano needs immediate medical care.  
The director of the DC Prisoners' Project stated in 2009 that Carswell,  
along with FMC Butner and FMC Rochester, “are clearly the ‘gold  
standard’ in terms of what BOP facilities can achieve in providing medical  
care,” and that they had provided “excellent medical care, sometimes for*

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*extremely complex medical needs.”*

*The wounds that Ms. Cerano has due to implants needs to be addressed with this gold standard care. She is in danger of injury and death if the wounds are not treated properly.*

*While any medical injury may arise under The Federal Tort Claims Act, in the § 1983 context, a supervisor, such as a warden, may be liable where he “affirmatively participates in acts which cause a constitutional deprivation, or implements an unconstitutional policy that causally result in the plaintiff’s injuries.” Casanova v. City of Brookshire, 119 F. Supp. 2d 639, 660 (S.D. Tex. 2000) (citing Baker v. Putnal, 75 F.3d 190, 199 (5th Cir. 1996)); see also Hinojosa v. Livingston, 807 F.3d 657, 669 (5th Cir. 2015).*

*Furthermore, prison officials do not escape liability by utilizing contract medical care:*

*“Contracting out prison medical care does not relieve the State of its constitutional duty to provide adequate medical treatment to those in its custody, and it does not deprive the State's prisoners of the means to vindicate their Eighth Amendment rights. The State bore an affirmative obligation to provide adequate medical care to [the prisoner]; the State delegated that function to [a doctor]; and respondent [doctor] voluntarily assumed that obligation by contract.” West v. Atkins, 487 U.S. 42, 55-56 (1988).*

*Based upon Ms. Cerano’s current condition she also requests a compassionate release. If she is released, he would get medical care in the free world.*

*Now that you are aware of Ms. Cerano’s condition please do not be indifferent to that condition. You can contact this firm via email with your response.*

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*Ms. Cerano still needs immediate care. It was prescribed that Ms. Cerano's wounds be cleaned every day yet this is only happening once a week. Now her wound has reopened putting her in grave danger.*

*The Federal Tort Claims Act ("FTCA") (28 U.S.C. sect. 2674) provides that the United States is liable for personal injuries and medical malpractice "in the same manner as a private individual under like circumstances." This is NOT a claim letter.*

...

Ms. Cerano is best served by being put back in the medical area she was just moved from. Please advise this law office of your course of action.

SINCERELY YOURS,

/s/ Randall L. Kallinen  
RANDALL L. KALLINEN

encl./attachment(s):  
RLK/ms  
cc: